

**DUCHESNE COUNTY**

**PLANNING COMMISSION MEETING**

**JANUARY 6, 2021**

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<b>REQUEST TYPE:</b>	Partial Utility Easement Vacation
<b>APPLICANTS:</b>	Troy Gadd
<b>PROPOSAL:</b>	Vacation of the northerly and southerly 10 feet of a public utility easement located within the Royal Stewart Subdivision
<b>LOCATION:</b>	Lots 24 and 25, Royal Stewart Subdivision
<b>ZONING DESIGNATION:</b>	R-1

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## **FINDINGS OF FACT**

### **1. PROPOSAL DESCRIPTION**

The owners of Lots 24 and 25 of the Royal Stewart Subdivision have an existing 60-foot wide utility easement centered on their common property line. The easement was platted with the subdivision due to the presence of a secondary water irrigation pipeline and a surface gas line. The gas line has since been removed, so there is no longer a need for that width of easement. The applicants propose to reduce the easement width to 40 feet by vacating ten feet on the north and south sides of the easement. The size of the existing easement has interfered with the plans of one owner to construct a detached garage/shop building.

### **2. HISTORY OF EVENTS**

November 16, 2020	The application was submitted.
November 16, 2020	The application was deemed complete.
December 9, 2020	Notice mailed to property owners and to affected entities.
December 22 & 29, 2020	Notice of Public Hearing published in the Uintah Basin Standard.
January 6, 2021	Planning Commission hearing.
January 11, 2021	County Commission hearing.

### **3. DUCHESNE COUNTY SUBDIVISION ORDINANCE**

#### **9-5-4: VACATING OR CHANGING SUBDIVISION PLAT, PUBLIC STREET, RIGHT OF WAY OR EASEMENT:**

Proposals to vacate or change a subdivision plat, public street, right of way or easement shall be processed in accordance with Utah Code Annotated sections 17-27a-608 and 17-27a-609, and subsequent amendments thereto, with public notice of such actions to be given as provided by Utah Code Annotated section 17-27a-208, and subsequent amendments thereto.

#### **Utah Code 17-27a-609.5.** Vacating a street, right-of-way, or easement.

(1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:

- (a) The name and address of each owner of record of land that is:
  - (i) Adjacent to the public street, right-of-way, or easement; or
  - (ii) Accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and
- (b) The signature of each owner under Subsection (1) (a) who consents to the vacation.

(2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

- (a) Good cause exists for the vacation; and

(b) The public interest or any person will be materially injured by the proposed vacation.

(3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:

(a) Good cause exists for the vacation; and

(b) Neither the public interest nor any person will be materially injured by the vacation.

(4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) A plat reflecting the vacation; or

(b) An ordinance described in Subsection (3).

(5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:

(a) Operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) May not be construed to impair:

(i) Any right-of-way or easement of any lot owner; or

(ii) The franchise rights of any public utility.

**Findings: A petition has been received from the property owner on the north side of the subject easement. The original easement was platted at a width of 60 feet as there were parallel utility lines in the area (a secondary water irrigation line and a gas line associated with oil wells in the area). Kinder Morgan has since released their interest in the right of way associated with the gas line and the pipeline has been removed.**

**Owners of all of the lots within 300 feet of the subject properties and all affected utility providers have been notified of the public hearing by mail.**

**Good cause exists for the granting of the partial utility easement vacation request. The easement has interfered with development plans for an accessory building on Lot 24. Utility companies can provide service to the lots within the subdivision from the County Road [2060 West] and no objections have been received from Dominion Energy, Moon Lake Electric, Strata Networks, Roosevelt City and the Royal Stewart Water Company.**

**Utah Code 17-27a-208.** Hearing and notice for proposal to vacate a public street, right-of-way, or easement.

(1) For any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall:

(a) Hold a public hearing; and

(b) Give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1) (a), the notice required under Subsection (1) (b) shall be:

(a) Mailed to the record owner of each parcel that is accessed by the public street, right-of-way, or easement;

(b) Mailed to each affected entity;

(c) Posted on or near the street, right-of-way, or easement in a manner that is calculated to alert the public; and

(d) Is:

(i) Published in a newspaper of general circulation in the county in which the land subject to the petition is located; and

(ii) Published on the Utah Public Notice Website created in Section 63F-1-701.

**Findings: The legislative body, the County Commission, has scheduled a public hearing for January 11, 2021. Notice of the Planning Commission and County Commission hearings was mailed on December 9, 2020 to all property owners abutting and within 300 feet of the easement. Coordination with affected utility entities was accomplished by the applicant. Notice was posted in the vicinity of the easement by the petitioner. Notice was published in the Uintah Basin Standard on December 22 and 29, 2020. Notice also appeared in the Utah Public Notice Website and the Duchesne County website.**

### CONCLUSIONS

1. Good cause exists for the granting of the easement vacation request. The public interest and the interests of property owners in the vicinity will not be harmed if the easements are vacated.
2. The request is valid.

### RECOMMENDATION

Recommended Motion: I move that the Planning Commission recommend to the County Commissioners the approval of Ordinance #21-382 to vacate the northerly and southerly ten feet of the public utility easement located within Lots 24 and 25 of the Royal Stewart Subdivision.

Mike Hyde, AICP  
Community Development Administrator